

In the Planning and Environment Court No

Held at: GYMPIE

Between:	Mark and Julieanne Grunske	Appellant (Applicant)
And:	Fraser Coast Regional Council	Respondent (Assessment Manager)
And:	Chief Executive Queensland Government	Co Respondent (Concurrence Agency)

NOTICE OF APPEAL

Filed on / /2024.
Filed by: Warren Bolton [Agent]
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Mark and Julieanne Grunske of ([Address Please](#)) appeals to the Planning and Environment Court at Gympie against Conditions of Decision Notice, dated ([date to be inserted here](#)) (Decision Notice) of the Respondent, (Assessment Manager) for Development Application **RAL21-0138**, (DA21) and seek the following orders or relief.

1. That the matter be referred for ADR process.

The Grounds of Appeal are:

1. The Co-Respondent, as referral (concurrence) agency, (SARA) incorrectly and or inappropriately interpreted provisions of the Planning Act 2016 (PA16) and relevant *assessment benchmarks*, in undertaking assessment of Development Application RAL:21-0138 (DA21) and thereby incorrectly and or inappropriately instructed the *Assessment Manager* to include in the *Decision Notice*, the **imposition** of unreasonable conditions, and conditions not reasonably required by the development; and

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Filed on behalf of: - Mark and Julieanne Grunske

Form PEC-1

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2. Further, if those conditions are lawful, then SARA in undertaking assessment of **Code** assessable DA21, applied the following conditions which are *unreasonable* and or not *reasonably required* by the Development:

Because:

- (a) The Development was for *reconfiguring a lot only*, not any other type of development. Therefore, Conditions Nos 4, 5, 8, 9(b) while appropriate to other types of developments are not relevant for DA21; and
- (b) In undertaking a *Code assessment* process for the development application, SARA did not, in accordance with the PA16 carry out the assessment - solely against the-
 - (i) the provision of the prescribed *assessment benchmarks*; and or
 - (ii) a matter prescribed by regulation for that development type, resulting in assigning, for Conditions Nos 4, 5, 8, 9, unreasonable impositions, thus making those aspects not reasonably required; and
- (c) Some components of determinations reached in Conditions Nos 1, 3, 4, 5, 6, 8, 9 could only have been achieved through the application of 'personal opinion' and therefore contrary to the requirement for Code Assessment under PA16 and therefore are unreasonably imposed; and
- (d) Condition No 9(b) is too vague in order to provide the Applicant with a clear understanding of what is required to be delivered by the development; and therefore, is unreasonable; and
- (e) Condition Nos 1, 3, 6, 7 are contrary to the lawful rights for a Development and therefore unreasonable; and
- (f) Condition No 3, denies the applicant lawful choice in providing a solution available within an *assessment benchmark* and therefore is an unreasonable imposition on, the development or the use of premises.
- (g) Condition Nos 1, 2, 5, 6, 7, and 9(a) pose the circumstances for creating exposure to a 'double jeopardy' style situation [Comply with legislation and comply with a development conditions (PA16-Section 164)] without any apparent responsible reason and is therefore an unreasonable condition.

.....
Appellant
Mark Grunske

.....
Appellant
Julianne Grunske

RESPONDENT - CO RESPONDENT

If you are named as a respondent or co respondent in this notice of appeal and wish to be heard in this appeal you must:

- (a) within 10 business days after being served with a copy of this Notice of Appeal, file an Entry of Appearance in the Registry where this notice of appeal was filed or where the court file is kept; and**
- (b) serve a copy of the Entry of Appearance on each other party.**

The Entry of Appearance should be in Form PEC – 5 for the Planning and Environment Court.

CO RESPONDENT by ELECTION

If you are entitled to elect to be a party to this appeal and you wish to be heard in this appeal you must:

- (a) within 10 business days of receipt of this Notice of Appeal, file a Notice of Election in the Registry where this Notice of Appeal was filed or where the court file is kept; and**
- (b) serve a copy of the Notice of Election on each other party.**

The Notice of Election should be in Form PEC – 6 for the Planning and Environment Court.